IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 26935 of 2007(F)

PETITIONER:

UMMER NADUVIL PEEDIAKKAL, P.B.NO.369,
RIYADH 11382, S/O.BAPPUTTY HAJI,
NADUVIL PEEDIYEKKAL HOUSE, TRIPRANGODE,
POILISSERY, PRESENTLY EMPLOYED AT RIYADH.

BY ADV. SRI.B.S.SWATHY KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

2. V.V.MYMOONA, D/O.HYDRU HAJI,
VALAKATH VALAPPIL HOUSE, POILISSERY PO.,
TIRUR.

R1 BY GOVT. PLEADER SRI. M.S. BREEZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 26935 of 2007 F

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Dated this the 5th day of October, 2007

JUDGMENT

The short grievance of the petitioner is that the final report in Crime No.72 of 2006 of Tirur Police Station, in which he is the defacto complainant and which has been referred by the police after investigation, was accepted by the learned Magistrate without any notice being served on the petitioner either by the Investigating agency or by the court concerned.

2. It is trite that before making such refer report the Investigating agency must give notice to the defacto complainant/ informant and that the learned Magistrate before accepting such report must also give notice to the defacto complainant/informant.

3. Report of the learned Magistrate was called for. Report dt.25.9.2007 has been received. The learned Magistrate reports that the final report was accepted by his predecessor without issuing any notice to the petitioner herein.

4. Acceptance of the final report in Crime No.72 of 2006 of Tirur police station is thus found to be not sustainable. Copy of the

report is produced as Ext.P2 by the petitioner himself. In these circumstances I am satisfied that the interests of justice will be served eminently by setting aside the order passed by the learned Magistrate accepting the refer report and giving the petitioner an opportunity to appear personally or through counsel before the learned Magistrate on a specified date to raise his objections, if any, against the final report, copy of which is available with the petitioner.

5. This writ petition is accordingly allowed. Acceptance of the final report by the learned Magistrate is set aside. The petitioner is permitted to appear before the learned Magistrate personally or through counsel on 29.10.2007 and raise all his objections against the final report submitted by the police after investigation. The learned Magistrate shall consider such objections and pass appropriate orders.

6. Communicate the order to the learned Magistrate forthwith.

(R. BASANT)
Judge

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